

SOUTH CAROLINA PUBLIC SERVICE COMMISSION

HEARING OFFICER DIRECTIVE

DOCKET NOS. [2017-370-E](#), [2017-207-E](#), and [2017-305-E](#) ORDER NO. 2018-106-H

AUGUST 9, 2018

David Butler
Hearing Officer

DOCKET DESCRIPTION:

Docket No. 2017-370-E – Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans

Docket No. 2017-207-E – Friends of the Earth and Sierra Club, Complainant/Petitioner v. South Carolina Electric & Gas Company, Defendant/Respondent

Docket No. 2017-305-E – Request of the Office of Regulatory Staff for Rate Relief to South Carolina Electric & Gas Company's Rates Pursuant to S.C. Code Ann. § 58-27-920

MATTER UNDER CONSIDERATION:

Motion for Leave to File Document Under Seal

Hearing Officer's Designation of Modified Response Dates for Motion to Sanction and Motion to Compel

HEARING EXAMINER ACTION:

I. The South Carolina Office of Regulatory Staff ("ORS") has filed a Motion for Leave to File Document Under Seal in connection with its Motion to Sanction and Compel. The document in question as stated by ORS is a privilege log submitted by Joint Applicants on July 6, 2018, and which has been marked as "Confidential" by South Carolina Electric & Gas Company ("SCE&G") and Dominion Energy, Inc. ("Dominion" and, together, the "Joint Applicants"). ORS disagrees with the "Confidential" designation and believes it is necessary for the Commission to review the Privilege Log in connection with its consideration of ORS' Motion to Sanction and Compel. Accordingly, ORS filed its Motion seeking permission to file the Privilege Log under seal, based on Rule 41.1 (b) of the South Carolina

Rules of Civil Procedure (SCRCP). Further, South Carolina Code Ann. Section 58-4-55 (A) addresses confidential documents and states in part: “if the [C]ommission determines that it is necessary to view such documents or information, it shall order [ORS] to file the documents or information with the [C]ommission under seal.” In this case, although ORS does not agree with the “Confidential” designation of the privilege log, it requests that the Commission accept a filing of the privilege log under seal in order to maintain, for the present, the Joint Applicants’ designation of the document as “Confidential,” and further requests that the Commission review said log *in camera* in connection with its Motion to Sanction and Compel. The Motion for Leave to File Document Under Seal is granted, so that, for the present, the Joint Applicants’ designation of the privilege log in question as “Confidential” will be maintained while under Commission review. Further, ORS is requested to also file the document that is the subject of the Motion, also under seal. The Hearing Officer requests that these documents be filed pursuant to this Directive as soon as practicable.

II. This Hearing Officer takes the ORS Motion to Sanction and to Compel Production of Wrongfully Withheld Documents very seriously, and believes that this matter should be addressed on an expedited basis. 10 S.C. Code Ann. Regs. 103-829 (A) holds that the times related to the filing of and responding to Motions before the Commission may be modified by order of the Commission or its designee for good cause. In this case, good cause clearly exists to modify the specified times. There are allegations of a violation of a previous Hearing Officer’s Directive, and a resulting inappropriate delay in an ORS investigation, due to the actions of the Joint Applicants. Since the hearing on these Dockets is in the near future, the Hearing Officer believes that an expedited review of the matters raised in the Motion to Sanction and Compel supports shortening the usual response time to the Motion, and the time for filing of a Reply to the Response to the Motion. Accordingly, the Joint Applicants have until the close of business on Tuesday, August 14, 2018 to file and serve their Response to the Motion. ORS will have until the close of business on Thursday, August 16, 2018 to file and serve its reply to the Joint Applicants’ Response to the Motion. This completes the Hearing Officer Directive.